IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 395 of 1998

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the Judgment ?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the Judgment ?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

ABDUL KHALID ABDUL AZIZ SHEKH
VERSUS
STATE OF GUJARAT

Appearance:
MR DK NAKRANI for the Petitioner
MR VM PANCHOLI, AGP, for the Respondents

CORAM : MR JUSTICE S.K. KESHOTE
Date of Decision : 28/03/2000

C.A.V. JUDGMENT

1. The petitioner as per his allegation is a riot hit. On 12-12-1990 in the communal riots, he received

bullet injury on his head. He was admitted to the V.S. Hospital through Gomtipur Police Station on the same day. On 13th December, 1990, the medical certificate was issued by the Medical Officer of V.S. Hospital. On 8th January,1991, the petitioner was again admitted as indoor patient in V.S. Hospital. On 15th February, 1991, the Medical Officer of the V.S. Hospital issued the injury certificate to the petitioner. The resolution of the Government dated 18th December, 1992 is on the record as Annexure `E'. In the list of events, it is mentioned of 4th of January, 1991. Under this resolution, scales for payment of ex-gratia grants to the families/persons affected by communal riots have been fixed. For the purpose of deciding of this writ petition, item No.(i) thereof is relevant, which reads as under:

(i) Permanent incapacitation (whether of earning or non-earning member of family)	Rs.5,000 to Rs.50,000/- (depending upon nature of permanent incapacitation)

2. The petitioner made an application for compensation and he was given Rs.1000/-. Relying on this resolution and the decision of this court in the case of Noor Mahmmad U. Mansuri vs. State of Gujarat reported in 1997 (1) GLH 49, learned counsel for the petitioner submitted that the petitioner should have been given Rs.50,000/= as compensation. It has next been contended that the resolution of the Government dated 18th December, 1992 provides sufficient guidelines and scales for payment of ex-gratia grant to the family/persons affected by communal riots to be made applicable to the present case.

3. On the other hand, the counsel for the respondent contended that this Government resolution dated 18th December,1992 is prospective. The day on which the petitioner suffered this injury he could have been granted Rs.1000/- as compensation and that amount has been granted. It has next been contended that this resolution of the Government otherwise also is not applicable to the present case. It is not the case where the permanent incapacitation as a result of the injury sustained by the petitioner is there. The certificate which is produced by the petitioner nowhere certifies that it is a case of permanent incapacitation because of this injury received by the petitioner.

Lastly, it is contended that the decision on which reliance has been placed by the petitioner is not applicable to the present case. There the victim has lost one eye which is a very important organ of the body and certainly it affects the earning capacity of the victim.

4. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties.

5. I find sufficient merits in the contention of the learned counsel for the respondents that leaving apart whether the resolution of the Government dated 18th December, 1992 is prospective or not, the petitioner's case does not fall under this resolution. The petitioner has failed to show that the injury sustained by him has resulted in permanent incapacitation of his. The certificates of the Medical Officer of V.S. Hospital are there and therefrom I do not find that the Officers have certified that as a result of this injury, there is a permanent incapacitation of the petitioner. The decision on which reliance is placed by the petitioner is certainly not of any help to the petitioner in this case. There the injury was altogether different injury then what here the petitioner received. The claim of the petitioner for compensation of Rs.50,000/= has no merits and it cannot be granted.

6. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this court stands vacated. No order as to costs.

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zgs/-